

**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

LPA No.415 of 2012

Decided on: 04.08.2025

Surinder Pal

...Appellant.

Versus

Union of India and others

...Respondents

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice

Hon'ble Mr. Justice Bipin C. Negi, Judge

¹*Whether approved for reporting?.*

For the appellant:

Mr. Rajesh Kumar, Advocate.

For the respondents:

Mr. Lokender Paul Thakur,
Senior Panel Counsel for
respondents No.1 and 2

Mr. Ajay Vaidya, Advocate, for
respondents No.3 and 4.

G.S. Sandhawalia, Chief Justice*[Oral]*

The present Letters Patent Appeal has been filed by Surinder Pal, who was writ petitioner No.2 in CWP No.1651 of 2002, titled **Bhim Singh and others versus Union of India and others**, decided on 09.08.2011.

2. The learned Single Judge while allowing the writ petition to the extent of other two writ petitioners No.1 and 3 has held them entitled for compensation in terms of Clause-3 of the Voluntary Retirement Scheme, whereby, they were entitled for salary of 35 years for every completed year of service and 25 days salary for balance years of service left

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

until superannuation and they were also entitled to interest @ 7.5% per annum w.e.f. 01.11.2002 and the previous payment of the amount was to be made by 31.12.2011, failing which interest @ 12% per annum was to be paid. The relevant part of the judgment reads as under:

- “7. VRS has been paid according to the respondents No.3 and 4. They have paid the compensation to petitioners No.1 and 3 on the basis of 45 days for each completed year of service i.e. they have followed the formula laid down for sick and unviable units. There is no material on record to show that the unit i.e. Ashoka Hotel, Manali was a sick and unviable unit. A sick unit can be one which is declared sick under the Sick Industrial Companies Act. An unviable unit would be one which cannot be revived under the said Act. Merely because a unit is not making profit does not mean that the unit is a sick Unit. Therefore, I am of the considered opinion that compensation had to be paid in terms of Clause 3 quoted herein above i.e. salary of 35 days for every completed year of service and 25 days salary for the balance years of service left until superannuation.*
- 8. In view of the aforesaid discussion, the Writ Petition qua petitioner No.2 is dismissed, but the Writ Petition qua petitioners No. 1 and 3 is partly allowed. They are held entitled to compensation in terms of Clause 3 above. The respondents No.3 and 4 are directed to pay arrears of compensation along with interest @7.5.% per annum w.e.f. 1.11.2002 i.e. when the previous payment of the amount was made till the date of payment. The amount be paid by 31.12.2011. In case, the amount is not paid by the said date, the respondents shall be liable to pay interest @ 12% per annum w.e.f. 1.11.2002 till the date of payment.*
- 9. With these observations, the petition is disposed of. No costs.”*

2. However, in respect of the present appellant-writ petitioner No.2, the writ petition was dismissed on account of the fact that he had tendered his resignation and did not want to work being not well. The averment made in the reply having not been controverted and the claim had to be

rejected. The relevant findings read as under:

“3. The stand of the respondents is that as far as petitioner No.1 Bhim Singh and petitioner No.3 Jeet Ram are concerned, they sought voluntary retirement vide their letters dated 20.8.2002 and had been paid their retiral dues. According to respondents No.3 and 4, petitioner No.2 Surinder Pal in fact resigned from service on 18.8.2003, after filing of the petition and hence is not entitled to any benefits.

4. As far as, petitioner No.2 is concerned, letter, Annexure R-5, has been placed on record by the respondents to show that he tendered his resignation on the ground that he was not well for about 7-8 months and does not want to work. Almost two years have elapsed but this averment made in the reply has not been controverted and therefore, the claim of the petitioner No.2 has to be rejected.”

3. Apparently, it was brought to the notice of the learned Single Judge that the present appellant had resigned from service on 18.08.2003 and it was held that he was not entitled to any benefit.

4. Respondents No.3 and 4 had also taken the contrary stand, as such, that the said appellant had left service much before filing of the writ petition and this fact had been concealed, though mentioning that the writ petition was filed in the month of November, 2002. The relevant part reads as under:

“That petitioner No.2, on his own, due to long illness left the job of the respondent company in the year 2002 and on 18.03.2003 submitted his resignation letter which is being annexed with this reply as Annexure R-5 and thereafter his service benefits were released to the petitioner No.2 vide Annexure R-6, that the petitioners has left the service of replying respondents No. 3 and 4 much before filing of the present writ petition and the said fact had been intentionally been concealed by the present petitioners as the said fact can be seen from the fact

that the present civil writ petition which was filed in the month of November 2002. That it is specifically submitted that the petitioners nor any other employee has challenged the amount received by then under voluntary retirement scheme, it is again specifically submitted that the aforesaid petitioners has not completed 10 years of service.”

5. It is not disputed that the writ petition was filed on 20.11.2002. The resignation thus was apparently tendered during the pendency of the writ petition. The relief claimed, as such, was similar, which has been granted to the other two writ-petitioners that the benefit of voluntarily retirement has to be given and that it has to be as per terms and conditions of Clause 9.4 of the Agreement. Once the petitioner was before this Court and at that point of time, the appellant-writ petitioner No.2 was still in service and merely because he has resigned, during the pendency of the writ petition, on account of his ill health, as noticed in Annexure R-5 and Annexure R-6, the benefit, as such, could not have been denied as he was in same position as the other writ petitioners.

6. Resultantly, we are of the considered opinion that on account of the incorrect stand taken by respondents No.3 and 4 that he resigned before the filing of the writ petition, an error has crept in the order of the learned Single Judge and had it been correctly projected that the appellant was in service at the time of filing of the writ petition, the result

would have been different. The resignation, as such, then would not affect the merits of the case. Had he actually resigned before filing of the writ petition, the position would have been different.

7. In such circumstances, we allow the present appeal and direct that respondents No.3 and 4 will pay the compensation in the same terms as directed by the learned Single Judge, qua writ petitioners No.1 and 3. Accordingly, the payment be made as per the order of learned Single Judge. However, the default interest element would come into play w.e.f. 01.11.2025.

8. The appeal is allowed in the aforesaid terms. Pending miscellaneous application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

4th August, 2025
[himani/bhardwaj]